

jointly agree on another order of priorities, the Director shall follow the order of priorities in § 366.22 for allocating funds among centers within a State, to the extent funds are available.

(b) If the order of priorities in § 366.22 is followed and, after meeting the priorities in § 366.22(a) (1) and (2), there are insufficient funds under the State's allotment under section 721(c) and (d) of the Act to fund a new center under § 366.22(a)(3), the Director may—

(1) Use the excess funds in the State to assist existing centers consistent with the State plan; or

(2) Return these funds to the Secretary for reallocation in accordance with section 721(d) of the Act.

(Authority: 29 U.S.C. 711(c) and 796f-2(e))

§ 366.35 What grants must be made to existing eligible agencies?

In accordance with the order of priorities established in § 366.34(a), an eligible agency may receive a grant under this subpart if the eligible agency meets the applicable requirements in §§ 366.2, 366.21, and 366.23.

(Authority: 29 U.S.C. 796f-2(c))

§ 366.36 How is an award made to a new center?

To be eligible for a grant as a new center under this subpart, an eligible agency shall meet the requirements for a new center in §§ 366.2(b) and 366.24, except that the award of a grant to a new center under this section is subject to the order of priorities in § 366.34(a).

(Authority: 29 U.S.C. 796f-2(d))

§ 366.37 What procedures does the Director of the DSU (Director) use in making a grant for a new center?

(a) In selecting from among applicants for a grant for a new center under § 366.24 of this subpart—

(1) The Director and the chairperson of the SILC, or other individual designated by the SILC to act on behalf of and at the direction of the SILC, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances in section 725 (b) and (c) of the Act and subparts F and G of this part and any criteria jointly established by

the Director and the chairperson or other designated individual;

(2) The peer review committee shall consider the ability of each applicant to operate a center and shall recommend an applicant to receive a grant under this subpart, based on either the selection criteria in § 366.27 or the following:

(i) Evidence of the need for a center, consistent with the State plan.

(ii) Any past performance of the applicant in providing services comparable to IL services.

(iii) The plan for complying with, or demonstrated success in complying with, the standards and the assurances in section 725 (b) and (c) of the Act and subparts F and G of this part.

(iv) The quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant.

(v) The budget and cost-effectiveness of the applicant.

(vi) The evaluation plan of the applicant.

(vii) The ability of the applicant to carry out the plans identified in paragraphs (a)(2) (iii) and (vi) of this section.

(b) The Director shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

(Approved by the Office of Management and Budget under control number 1820-0018)

(Authority: 29 U.S.C. 796f-2(d)(2))

§ 366.38 What are the procedures for review of centers?

(a) The Director shall, in accordance with section 723(g)(1) and (h) of the Act, periodically review each center receiving funds under section 723 of the Act to determine whether the center is in compliance with the standards and assurances in section 725 (b) and (c) of the Act and subparts F and G of this part.

(b) The periodic reviews of centers required by paragraph (a) of this section must include annual on-site compliance reviews of at least 15 percent of the centers assisted under section 723 of the Act in that State in each year.

(c) Each team that conducts an on-site compliance review of a center shall